



FEB 23 2010

Abbott Laboratories  
c/o Polsinelli Shughart PC  
Two Prudential Plaza  
180 N. Stetson Ave.  
Suite 4525  
Chicago, IL 60601

In Re: Patent Term Extension  
Application for  
U.S. Patent No. 5,840,722

NOTICE OF FINAL DETERMINATION  
AND  
REQUIREMENT FOR ELECTION

A determination has been made that U.S. Patent No. 5,840,722, claims of which cover the human drug product LETAIRIS® (ambrisentan), is eligible for patent term extension under 35 U.S.C. § 156. The period of extension has been determined to be 1,025 days.

A single request for reconsideration of this final determination as to the length of extension of the term of the patent may be made if filed within one month of the date of this notice. Extensions of time under 37 CFR § 1.136(a) are not applicable to this time period.

Applicant also has applied for patent term extension for U.S. Patent Nos. 5,703,017, 5,932,730, and 7,109,205 based on the regulatory review period for LETAIRIS® (ambrisentan).

When patent term extension applications are filed for extension of the terms of different patents based upon the same regulatory review period for a product, the certificate of extension is issued to the patent having the earliest date of issuance, unless applicant elects a different patent. In the absence of an election by applicant within one month of the date of this notice, and in accordance with 37 CFR 1.785(b), the application for patent term extension in the above-identified patent will be denied. Accordingly, the application for patent term extension of the patent having the earlier date of issuance will be granted, i.e., a certificate of extension will be issued to U.S. Patent No. 5,703,017. In the absence of a request for reconsideration, and if U.S. Patent No. 5,840,722 is elected, the Director will issue to the applicant a certificate of extension, under seal, for a period of 1,025 days in U.S. Patent No. 5,840,722.

The period of extension has been calculated using the Food and Drug Administration determination of the length of the regulatory review period published in the Federal Register of February 10, 2009 (74 Fed. Reg. 6635). Under 35 U.S.C. § 156(c):

$$\begin{aligned}\text{Period of Extension} &= \frac{1}{2} (\text{Testing Phase}) + \text{Approval Phase} \\ &= \frac{1}{2} (1,691 - 0) + 180\end{aligned}$$

= 1,025 days ( years)

Since the regulatory review period began May 3, 2002, after the patent issued (November 24, 1998), the entire regulatory review period has been considered in the above determination of the length of the extension period 35 U.S.C. § 156(c). No determination of a lack of due diligence under 35 U.S.C. § 156(c)(1) was made.

Neither the limitations of 35 U.S.C. § 156(g)(6) nor 35 U.S.C. § 156(c)(3) operate to reduce the period of extension determined above.

Upon issuance of the certificate of extension, the following information will be published in the Official Gazette:

U.S. Patent No.:	5,840,722
Granted:	November 24, 1998
Original Expiration Date <sup>1</sup> :	November 24, 2015
Applicant:	Ernst Baumann et al.
Owner of Record:	Abbott GmbH & Co. KG
Title:	Use of Carboxylic Acid Derivatives as Drugs
Product Trade Name:	LETAIRIS® (ambrisentan)
Term Extended:	1,025 days
Expiration Date of Extension:	September 14, 2018

Any correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Hatch-Waxman PTE	By FAX:	(571) 273-7728
	Commissioner for Patents		
	P.O. Box 1450		
	Alexandria, VA 22313-1450.		

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<sup>1</sup>Subject to the provisions of 35 U.S.C. § 41(b).

Telephone inquiries related to this determination should be directed to Raul Tamayo at (571) 272-7728.



Mary C. Till

Legal Advisor

Office of Patent Legal Administration

Office of the Associate Commissioner

for Patent Examination Policy

cc: Office of Regulatory Policy  
Food and Drug Administration  
10903 New Hampshire Ave., Bldg. 51, Rm. 6222  
Silver Spring, MD 20993-0002

RE: LETAIRIS® (ambrisentan)  
Docket No.: FDA-2008-E-0114

Attention: Beverly Friedman